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EARLY PROJECTIONS OF ELECTION RESULTS

SEPTEMBER 12 (legislative day, SEPTEMBER 5), 1984.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany H. Con. Res. 321]

The Committee on Commerce, Science, and Transportation, to which was referred the concurrent resolution (H. Con. Res. 321) expressing the sense of the Congress with respect to the adverse impact of early projections of election results by the news media, having considered the same, reports favorably thereon without amendment and recommends that the concurrent resolution do pass.

PURPOSE OF RESOLUTION

This concurrent resolution expresses the sense of the Congress that the news media, in order to protect the integrity of the electoral process, should voluntarily refrain from projecting or characterizing results of elections before all polls for the office have closed.

BACKGROUND AND NEEDS

This resolution stems from concern, exacerbated by the 1980 elections, that projections or characterizations of election results by the news media before polls have closed may decrease voter turnout, thereby undermining the electoral process.

In 1980, NBC projected Ronald Reagan as the winner at 8:15 p.m. EST. ABC projected the same result at 9:50 p.m. EST, and CBS did so at 10:15 p.m. EST. President Carter conceded defeat at 9:45 p.m. EST. All of these events occurred before the 11:00 p.m. EST closing time of many polls in western States.

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These projections and the early concession by President Carter reportedly convinced many voters that the election was over before they had a chance to cast their ballots. The situation in Oregon was described by Norma Paulus, the Secretary of State:

> But still, we had reports, which were verified by our county clerks and election board members, that when, about 5:15, NBC came into our State and projected Reagan as the winner, that people standing in line, essentially the lunch bucket vote, which the conventional wisdom in politics is that that is Democratic, and I believe it to be so in our State in the urban areas, that people left the polls in droves.
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> In our State it is also possible to register on election day up to and including 8:00 o'clock when the polls close. And we had reports from all of our urban clerks as to people standing in line to register left also, and many reports of disc jockeys on the radio that people driving from work to the polls turned around in disgust.
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> While a diminished voter turnout would not have altered the outcome of the presidential race, other races for Federal office or races at the State and local level may have been affected by even minimal reductions in voter turnout. For example, Congressman Al Ullman was defeated by less than 2 percent of the votes cast. Senator Frank Church lost by 1 percent of the votes cast. Seven special district budget measures in Oregon were decided by less than 10 votes each.
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> Some members of the news media, particularly the three television networks, dispute the impact that projections have on voter turnout, and criticize the studies that attempt to measure that impact. For example, George Watson, Vice President of ABC News, stated:
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> "We have heard many times since 1980 stories that some voters on the West Coast deserted polling places after hearing of President Carter's concession and/or network reports of the Reagan landslide. But the actual evidence of this effect on voting is thin, anecdotal and inconclusive. . . . We have seen no clear or conclusive evidence that indicates that election night reporting adversely affects voter turnout."

The Committee recognizes that it may be difficult to measure or quantify the effect that projections or characterizations have on voter turnouts. It is clear, however, at a time when low voter turnout is of widespread concern, that these practices are *perceived* to contribute to this problem. Many citizens, particularly those in the western States, have the impression that their votes have diminished weight, or that the media, not the electorate, are determining the outcome of races in a competition to be first to report election information.

A variety of proposals have been suggested to solve this problem. One suggestion is that the news media be banned from issuing early projections. That approach, however, would likely run afoul of the First Amendment protections of free speech and a free press.

Another approach is to restrict exit polling. Restrictions on the exit polling practices of the media have been enacted or considered in a number of States. Washington, for example, has passed a law banning

exit polling within 300 feet of voting booths. That law has been challenged in the courts by the media, and regardless of the outcome of this challenge, such laws are of uncertain effectiveness in addressing the problem on a nationwide basis.

Because this problem is due, in part, to polls closing at different times across the Nation, uniform poll closing times have been proposed. This approach, however, could not prevent early projections or characterizations by the news media if they are made on the basis of data from exit polling.

The Committee believes that this resolution provides a more balanced and effective approach. The resolution does not have the force of law, and it avoids infringement of the First Amendment rights of the news media. At the same time, it sends a clear signal to the media that the public is concerned about the effect of election reporting practices on the electoral process and that this situation calls for self restraint on the media's part.

LEGISLATIVE HISTORY

H. Con. Res. 321 was introduced by Congressman Al Swift on June 18, 1984. The House of Representatives passed this resolution on June 26, 1984, by a vote of 352–65. On June 28, 1984, H. Con. Res. 321 was received in the Senate and referred to the Committee on Commerce, Science, and Transportation. Commerce Committee hearings were held on August 2, 1984, and on August 8, the Committee ordered H. Con. Res. 321 reported without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 contains the findings of the Congress.

Section 2

Section 2 expresses the sense of the Congress that the news media should voluntarily refrain from characterizing or projecting election results before all polls for an office have closed, and that the media should adopt guidelines to assure that exit polling data is not used for such early characterizations or projections. (In States with multiple poll closing times, the media should exercise restraint until the last polls are closed.)

Projections and characterizations.—Projections are predictions about the outcome of an election before that outcome has been determined by actual vote counts. In the hearing on this resolution, all three major television networks stated that their general practice is not to project election results until the polls have closed. The networks do, however, characterize races before the polls close.

An example of a characterization would be a statement by the media that "based upon our early data, it looks like a good day for candidate X." The Committee recognizes that some characterizations of races may have the same impact as a projection of the race's outcome—to the public, it may be equally clear that a particular race is effectively over. Therefore, this resolution calls upon the media to exercise self restraint to avoid issuing both projections and characterizations before polls have closed.

Guidelines for the use of exit polling data.—The Committee does not intend to discourage exit polling. Data from exit polls can provide valuable information to political parties, political organizations, academic institutions, and the news media on voting practices and patterns. However, because exit polling data can be used to project winners or characterize races in such a way that voter turnout is affected, the media should adopt guidelines to assure that this data is not used for such purposes.

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